



ORGANIZATION FOR THE PROTECTION
AND ADVANCEMENT OF SMALL
TELEPHONE COMPANIES

21 DUPONT CIRCLE, N.W., SUITE 700
WASHINGTON, D.C. 20036
202-659-5990 • 202-659-4619 (FAX)

RECEIVED

December 16, 1993

DEC 16 1993

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

Re: MFS Communications Company, Inc.

Petition for a Notice of Inquiry
into Policies and Programs to Assure
Universal Telephone Service in a
Competitive Market Environment
RM-8388

Dear Mr. Caton:

Please find enclosed for filing the original and eleven copies of the Organization for the Protection and Advancement of Small Telephone Companies' comments in the above-captioned proceeding.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads 'Lisa M. Zaina'.

Lisa M. Zaina
General Counsel

No. of Copies rec'd
List A B C D E

0211
C.C.B.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

DEC 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

MFS Communications Company, Inc.

RM-8388

Petition for a Notice of Inquiry
into Policies and Programs to Assure
Universal Telephone Service in
a Competitive Market Environment

**COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES**

OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036
(202) 659-5990

December 16, 1993

RECEIVED

DEC 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

MFS Communications Company, Inc.

Petition for a Notice of Inquiry
into Policies and Programs to Assure
Universal Telephone Service in
a Competitive Market Environment

RM-8388

COMMENTS OF
THE ORGANIZATION FOR THE PROTECTION AND
ADVANCEMENT OF SMALL TELEPHONE COMPANIES

I. INTRODUCTION

On November 1, 1993, MFS Communications Company, Inc. (MFS) petitioned the Federal Communications Commission (FCC or Commission) to begin an inquiry to determine future policies regarding the pursuit of universal service in a more competitive local exchange environment.¹ The Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) hereby submits its comments on MFS' Petition.

¹In the Matter of MFS Communications Company, Inc. Request for a Notice of Inquiry Into Policies and Programs to Assure Universal Telephone Service in a Competitive Market Environment, RM-8388, Petition for a Notice of Inquiry and En Banc Hearing, filed November 1, 1993. (Petition)

OPASTCO is a national trade association of more than 430 independently owned and operated telephone companies serving rural areas of the United States and Canada. Its members, which include both commercial companies and cooperatives, together serve almost two million customers.

In FCC proceedings and Congressional hearings, OPASTCO has consistently maintained that mandating competition in rural areas will not benefit rural consumers, as it may benefit urban ones. OPASTCO, therefore, agrees with MFS that the basic issue of preserving universal service as competition is introduced into the local exchange is one that must be addressed in a timely manner, to prevent adversely affecting certain classes of consumers. However, OPASTCO believes this issue can be dealt with most expeditiously in the FCC's previously announced proceeding on universal service and the Universal Service Fund.

II. ADDITIONAL QUESTIONS ARE FUNDAMENTAL TO ANY UNIVERSAL SERVICE DISCUSSION

MFS raises four basic questions in its Petition: 1) Which services or users require subsidization? 2) How much subsidy is actually required? 3) Who should administer subsidy programs? 4) How should subsidy funds be raised?² OPASTCO agrees that these questions are vitally important, and must be answered as the local exchange industry moves from a regulated to a more competitive environment.

²Id. at iii-iv.

However, these are not the only questions that must be addressed. For example, when examining universal service in a competitive environment, it is important to examine exactly what is competitive, as well as what is being subsidized. What exactly is meant by local competition? Is it the presence of competitive local services, such as cellular or personal communications services? Or is it the presence of wireline facilities-based competition -- the elimination of the exclusive franchise? This question is very important in rural areas. If competitive carriers are allowed to overbuild local exchange carriers (LECs) in sparsely populated areas, true open competition might ultimately force the incumbent LEC to abandon service to its high cost loops in order to remain competitive. This cannot be allowed to happen. Competition must not be forced into the local exchange at the expense of universal service, the core of this country's telecommunications policy (see below).

Any discussion of universal service, therefore, should not be limited to the questions specified by MFS, or assume that the underlying assumptions leading to those questions are valid.

III. LOCAL COMPETITION AND UNIVERSAL SERVICE ARE FUNDAMENTALLY INCONSISTENT

OPASTCO strongly disagrees with MFS' basic premise that "universal service and local competition are highly compatible and not inherently inconsistent."³ In fact, local competition and universal service are fundamentally inconsistent. Therefore,

³Id. at 2.

it is the responsibility of the industry and public policymakers to ensure that competition in the local exchange emerges in such a way that it does not undermine universal service. As MFS points out, the assurance of universal service is "one of the Commission's most significant . . . responsibilities."⁴ However, contrary to MFS' argument, the Communications Act of 1934 promotes universal service, not competition for competition's sake, and it is not the Commission's responsibility to protect potential competitors at the expense of the entities that historically assumed the responsibility of providing universal service.

Many rural areas could not support two providers of local exchange service. Even introducing competition in urban areas has adverse universal service implications, since driving prices toward cost in urban areas will create pressure on the support mechanisms that keep rates reasonable in rural areas. Prior to the introduction of local competition, the costs and rates of local service were delicately balanced across the nation. The introduction of competition in urban areas has already disrupted that balance -- countermeasures must be taken to ensure that the balance is restored.

⁴Id.

IV. MOST RURAL AREAS ARE IN FACT COSTLIER TO SERVE THAN URBAN AREAS, YET THE CURRENT SUPPORT SYSTEM ALLOWS THEM TO BE SERVED IN A HIGHLY EFFICIENT MANNER

When discussing particular rural demographics, MFS tends to focus on exceptions rather than the rule. For example, as areas with low population densities MFS lists Southampton, New York; Palm Springs, California; Jackson Hole, Wyoming; and Middleburg, Virginia.⁵ Areas more reflective of the communities served by OPASTCO's 430-plus member companies, on the other hand, would include Holbrook, Nebraska; Freedom, Wyoming; and Loretto, Tennessee.⁶

MFS concentrates on the efficient provision of service to rural areas, and complains that current "high cost" programs such as the Universal Service Fund do not incent efficiency. OPASTCO disagrees. Rural LECs strive to provide service to their customers in the most efficient manner possible. The physical parameters of their service areas -- large, sparsely populated geographic areas, sometimes including hostile environments or remote locations, demand that small LECs provide service as efficiently as possible. For example, some areas have proven to be too expensive to serve via wire facilities, so LECs have installed Basic Exchange Telephone Radio Systems (BETRS) to provide service. However, in concentrating on efficiency MFS

⁵Id. at 11.

⁶This list does not reflect the truly sparse areas of the country served by some of its member companies, such as Kotzebue, Alaska, above the Arctic Circle.

ignores another parameter in the provision of service -- quality. The existing support programs have acted as incentives to provide modern telecommunications services in rural areas. Indeed, rural communities which are served by companies that receive the benefits of such programs often enjoy a higher level of service quality than those which do not.

MFS believes that the "[e]limination of direct subsidies to LECs would mean that competitors and incumbents would each compete based on their own costs, creating a market incentive for competitors to seek to serve rural areas if they can do so efficiently."⁷ This statement utterly ignores the historical basis for many of the regulations MFS is questioning -- one of the very reasons regulation was imposed on LECs in the first place was to create the efficiencies that the open market could not, and did not.

V. RATES IN SOME RURAL AREAS ARE APPROPRIATELY SET LOWER THAN IN URBAN AREAS

MFS characterizes the rates in some rural areas and areas served by some small LECs as inappropriately low -- that is, lower than urban rates. OPASTCO believes this is a mischaracterization.

While local rates may be lower in rural areas because of "value of service" pricing established by state public service commissions (PSCs) to reflect the number of subscribers that can be called in a local area, in fact the total telephone bill for

⁷Petition at 12.

rural subscribers is often higher than urban subscribers. Because of the low population densities and long distances between rural towns, the "community of interest" for rural residents is often spread over a large geographic area. The local calling area, however, does not cover the entire community of interest. For example, in order to do business with government agencies, consult with doctors, etc., rural telephone subscribers must often make long distance calls to other towns. In urban areas, on the other hand, most of these calls would be local in nature. Therefore, while the local rate may be lower in rural areas, the total monthly telephone bill (including local and toll charges) is usually higher in rural areas than in cities, for similar calling patterns.

VI. THE FCC HAS ALREADY ESTABLISHED A PROCEEDING IN WHICH TO DEBATE THESE ISSUES

In its Petition MFS maintains that the FCC should initiate a new, separate inquiry into universal service issues, because none of the Commission's current proceedings will provide a comprehensive treatment of these issues.⁸ OPASTCO disagrees. In its Notice of Proposed Rulemaking outlining interim treatment of the Universal Service Fund (USF), the FCC indicated that it would initiate a comprehensive review of the USF in the near future. The Commission explained that its proposed interim measures would remain in place "for a limited time period while we pursue a

⁸Id. at 6.


rulemaking on a broad spectrum of USF issues."⁹ OPASTCO believes this proceeding is the appropriate place to address the issues MFS has raised in its Petition, in addition to other issues that will require review.


VII. CONCLUSION

Therefore, OPASTCO respectfully requests that the Commission not initiate a separate proceeding, as MFS requests, but instead review the issues MFS raises in its Petition, along with other issues which require review, in its existing proceeding examining the USF.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROTECTION AND ADVANCEMENT
OF SMALL TELEPHONE COMPANIES**

By: 
Matthew L. Dosch
Manager - Regulatory &
Legislative Affairs

By: 
Lisa M. Zaina
General Counsel

OPASTCO
21 Dupont Circle, NW
Suite 700
Washington, DC 20036
(202) 659-5990

December 16, 1993

⁹In the Matter of Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, Notice of Proposed Rulemaking, 8 FCC Rcd 7114 (1993), at 1.

CERTIFICATE OF SERVICE

I, Megan A. Gillispie, hereby certify that a copy of OPASTCO's comments was sent on this, the 16th day of December, 1993, by first class United States mail, postage prepaid, to those listed below.

A handwritten signature in cursive script that reads "Megan A. Gillispie". The signature is written in black ink and is positioned above the printed name.

Megan A. Gillispie

Andrew D. Lipman
Russell M. Blau
Swidler & Berlin
3000 K Street, NW
Washington, DC 20007
Attorneys for MFS Communications

ITS, Inc.
2100 M Street, NW
Suite 140
Washington, DC 20037